

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.9630 of 1997

ORAL ORDER:

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This Writ Petition is filed seeking a Mandamus directing the respondents to consider the recommendation made by the Trust Board of Tirumala Tirupathi Devasthanams and also the options called for from the petitioners for appointment as Teachers by transfer and appoint them as Secondary Grade Teachers by declaring the Proceedings Roc.No.D2/29241/DEO/96, dated 7-4-1997 issued by the 2nd respondent as arbitrary and illegal.

It appears, the petitioners are working in various capacities in the respondent-Tirumala Tirupathi Devasthanams for the last several years. All of them are Graduates and also obtained B.Ed. Degree and some are even Post-Graduates. Tirumala Tirupathi Devasthanams is running several educational institutions under its control. The educational institutions established by Tirumala Tirupathi Devasthanams are governed by the Rules issued by the Government from time to time. As per the service Rules issued in G.O.Ms.No.1060, dated 24-10-1989, Teachers also could be appointed by Transfer, if they are fully qualified. In view of the same, the respondent-Board had appointed several persons as Secondary Grade Teachers with a condition that they would be absorbed as soon as the Government gives its approval. Subsequently, the services of all the Teachers were regularized and their probation was also declared. Even as per Memo

No.D2/33037/91, dated 26-12-1991, the procedure of appointing Teachers by recruitment by transfer was existing in Tirumala Tirupathi Devasthanams. While so, several posts of teachers in the Tirumala Tirupathi Devasthanams' institutions are vacant. As per the Circular dated 5-3-1996, all the eligible candidates working under non-teaching establishment were asked to submit their bio-data for appointment as Teachers in the Schools. In pursuance of the same, petitioners made applications. However, they were not considered. Therefore, they filed Writ Petition No.12624 of 1996. In the counter filed therein, the Tirumala Tirupathi Devasthanams stated that the Trust Board has resolved to appoint direct recruits and inservice candidates in the ratio of 1:1 and the Government Orders in this regard are still awaited; as such, the Teachers were appointed temporarily. According to the petitioners, the Management has been adopting different procedures at different times. Whenever it suits, it has been taking the inservice candidates, who are qualified for appointment in various Schools under its Management. When qualified inservice candidates are available and when the Schools are run without teachers, it is incumbent upon the Management to follow the same procedure that was in vogue earlier and appoint them as Teachers. The grievance of the petitioners is that in spite of several representations, their case was not considered. However, at last, by an Order dated 7-4-1997 of the 2nd respondent, the case of the petitioners was rejected saying that G.O.Ms.No.78, General Administration Department, dated

10-1-1962 has been superseded by G.O.Ms.No.40, Education (Ser.II) Department, dated 7-2-1992 and there is no practice for appointment of Teachers by recruitment by transfer from other services in the Government as clarified by the District Educational Officer, Chittoor. Challenging the said Proceedings, the present Writ Petition is filed.

A detailed counter affidavit has been filed on behalf of the 2nd respondent denying the allegations made by the petitioner. It is asserted that in view of non-receipt of Orders of the Government on recruitment by transfer and superseding of G.O.Ms.No.78, dated 10-1-1962 by G.O.Ms.No.40, dated 7-2-1992, the Board of Trustees, Tirumala Tirupathi Devasthanams, Tirupathi has resolved and approved to recommend the Government for one time exemption for the already appointed 24 Teachers on recruitment by transfer. Even after long correspondence with the Government seeking one time exemption for the already appointed 24 Teachers on recruitment by transfer during 1991, the Orders of the Government are yet to be received. As a result, the temporary services of the Teachers appointed on direct recruitment during 1992 i.e. after the persons appointed on recruitment by transfer during 1991 have been regularized and declared as approved probationers conditionally and the qualified persons among these persons have also been promoted after obtaining legal opinion. Further, basing on the directions in Writ Petition No.10792 of 1996, dated 15-6-1998, the Standing Counsel of Tirumala Tirupathi Devasthanams had opined that the regularization of service

and promotion to these individuals are subject to the approval of the Government of their appointments by transfer and if the Government negatives the proposals, the petitioners therein have to be reverted back to their substantive posts. Accordingly, the matter has been placed before the Board of Trustees of the respondent-Devasthanams and the Board in its Resolution No.789, dated 23/24-10-1998 had approved the proposals for regularization of temporary services of two petitioners in the said Writ Petition, namely, Smt. K.Geethanjali and Smt. Meenakumari, Secondary Grade Assistants including 21 others, who were similarly appointed on recruitment by transfer during 1991 and hence, the temporary services of those 23 Teachers were regularized and declared as approved probationers, conditionally, pending approval of the Government. It is further asserted that the Circular dated 5-3-1996 has not given any assurance to the petitioners that they would be absorbed in teaching institutions. Petitioners made applications and when no orders were received, they filed Writ Petition No.12624 of 1996 seeking a direction to consider their case for appointment as Teachers on recruitment by transfer in the several vacancies available in the Schools managed by the Tirumala Tirupathi Devasthanams on par with the teachers appointed on recruitment by transfer during 1990-91. In view of the clarifications issued by the Government that the A.P. Educational Subordinate Service Rules are not applicable to the Tirumala Tirupathi Devasthanams' Educational Institutions and in view of G.O.Ms.No.78,

dated 10-1-1962 in which the recruitment by transfer existed was superseded by G.O.Ms.No.40, dated 7-2-1992 and also there is no practice of appointment of teachers on recruitment by transfer in Government, the petitioners were informed that their request for appointment as Teachers, by recruitment by transfer, in the Schools run by Tirumala Tirupathi Devasthanams could not be considered.

From the above, it appears that even for the earlier recruitment by transfer that had taken place during the year 1990-91, a resolution has been passed by the Board that the services of 23 Secondary Grade Teachers should be regularized, subject to approval by the Government. The approval is still awaited from the Government. The petitioners cannot claim as a matter of right for appointment as Teachers by transfer, since G.O.Ms.No.78/76, dated 10-1-1962 has been superseded by way of issuance of G.O.Ms.No.40, Education, dated 7-2-1992. Even otherwise, it is now about ten years since the Writ Petition was admitted and there was no interim orders issued by this Court during the pendency of the Writ Petition. Therefore, directing the respondents to consider the case of the petitioners for appointment as Secondary Grade Teachers in the Schools run by Tirumala Tirupathi Devasthanams, at this stage, may result in futile and arbitrary exercise. The Writ Petition is devoid of merits and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

31-1-2007

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